

SERVICE DATE - OCTOBER 27, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 7X)

NEW YORK CENTRAL LINES, LLC-ABANDONMENT EXEMPTION-
IN SUFFOLK COUNTY, MA

Decided: October 26, 2004

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152.50 Subpart F-Exempt Abandonments and Discontinuances of Service for NYC to abandon and CSXT to discontinue service over approximately 2.17 miles of railroad between milepost QBG-5.7 and milepost QBG-7.87 in Chelsea, Suffolk County, MA. Notice of the exemption was served and published in the Federal Register on March 29, 2002 (67 FR 15281).¹ On April 29, 2002, a decision and notice of interim trail use or abandonment (NITU) was served, reopening the proceeding and authorizing a 180-day period for the City of Chelsea, MA (City), to negotiate an interim trail use/rail banking agreement with NYC for the right-of-way involved in this proceeding.² The negotiating period was extended several times; the latest extension is scheduled to expire on October 28, 2004.³

On October 15, 2004, CSXT filed a request to extend the NITU negotiation period until April 28, 2005. CSXT states that it and the City have been unable to finalize trail use negotiations. Additionally, CSXT requests an extension of the consummation notice filing deadline until June 28, 2005. The Board's regulations at 49 CFR 1152.29(e)(2) require the filing of a notice of consummation within 1 year from the service date of the decision authorizing an abandonment if there are no legal or regulatory barriers to consummation at that time. The trail use condition imposed in this proceeding is a regulatory barrier to consummation (see 49 CFR 1152.29(e)(2)). Pursuant to 49 CFR 1152.29(e)(2), CSXT has 60 days following the satisfaction, removal, or expiration of imposed conditions to file a notice of consummation of the

¹ The notice issued on March 29, 2002, embraced STB Docket No. AB-55 (Sub-No. 605X), CSX Transportation, Inc.-Discontinuance of Service Exemption-in Suffolk County, MA.

² The April 29, 2002 decision also imposed environmental conditions.

³ The most recent extension of the negotiation period under the NITU was authorized by decision served on April 22, 2004

abandonment. To provide certainty to CSXT, however, the Board will provide that the notice of consummation need not be filed until June 28, 2005.

Because an extension of the consummation notice filing deadline and the NITU negotiating period will promote the establishment of trail use and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d), and the rail carrier has indicated its willingness to continue negotiations by requesting an extension, the requested extensions will be granted. See Policy Statement on Rails to Trails Conversion, Ex Parte No. 274 (Sub-No. 13B) (ICC served Feb. 5, 1990). Accordingly the NITU negotiation period will be extended until April 28, 2005,⁴ and the consummation notice filing deadline will be extended to June 28, 2005.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. CSXT's request for an extension of the negotiating period and its request for an extension of the time to exercise abandonment authority are granted.
2. The negotiating period under the NITU is extended to April 28, 2005.
3. The authority to abandon must be exercised on or before June 28, 2005.
4. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

⁴ Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company—Abandonment Exemption—In Jackson, Victoria and Wharton Counties, TX, Docket No. AB-12 (Sub-No. 162X) (STB served May 29, 1996).